

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

SPORTBOX LLC, and  
WILLIAM V. FRABIZIO III

Plaintiffs,

v.

ELECTRIC-SPORTS, INC.,  
JOHN E. CONWAY, and MARK BORTMAN

Defendants.

CIVIL ACTION No. 04-12588 DPW

**REQUEST FOR ORAL ARGUMENT**

ELECTRIC SPORTS, INC.,  
JOHN E. CONWAY, and MARK BORTMAN

Plaintiffs in Counterclaim,

v.

SPORTBOX LLC, and  
WILLIAM V. FRABIZIO III,

Defendants in Counterclaim.

**DEFENDANTS' CROSS-MOTION TO  
STRIKE SECOND AMENDED COMPLAINT**

Pursuant to Federal Rule 12(f), Defendants Electric Sports, Inc., John E. Conway and Mark Bortman (collectively, "Defendants") respectfully move this Court to strike in its entirety the second amended complaint by Plaintiff William V. Frabizio III that he has erroneously (or misleadingly) entitled "Motion to Amend the Complaint With Exhibits And Provide A Settlement Agreement That Supersedes And Negates Defendants' Counterclaims" (Court Docket No. 16). In support of this motion, Defendants rely upon the points and authorities discussed in detail in the Defendants' Memorandum of Law (1) In Opposition To William V. Frabizio III's

Filing of a Second Amended Complaint and (2) In Support Of Defendants' Cross-Motion To Strike Second Amended Complaint filed contemporaneously with this Motion.

**REQUEST FOR ORAL ARGUMENT**

Defendants hereby respectfully request that the Court schedule oral argument to clarify and resolve the issues presented by this motion.

Respectfully submitted,

ELECTRIC SPORTS, INC.,  
MARK BORTMAN and JOHN E. CONWAY,

By their attorneys,

**/s/ Gabriel M. Helmer**

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Dated: March 18, 2005

ATTORNEYS FOR DEFENDANTS

**LOCAL RULE 7.1 CERTIFICATION**

The undersigned counsel for the plaintiffs hereby certifies that counsel for defendants attempted in good faith to confer on this motion with plaintiffs SPORTBOX, LLC and WILLIAM V. FRABIZIO III by telephone on March 18, 2005, but was unable to resolve this issue.

**/s/ Gabriel M. Helmer**

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Gabriel M. Helmer

**CERTIFICATE OF SERVICE**

I hereby certify that on the 18th day of March, 2005, I caused a true copy of the above document to be served upon SPORTBOX, LLC and WILLIAM V. FRABIZIO III by mail.

**/s/ Gabriel M. Helmer**

Gabriel M. Helmer